REMARKS

Claims 1-13 are in the application. By this amendment, Claim 14 has been cancelled. Claims 4, 6, 9 and 15-22 were previously cancelled. Only Claim 1 is in independent form.

Claims 1 and 14 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Of course, this rejection is moot with respect to Claim 14, which has been cancelled. The Examiner states that the specification "fails to recite what is meant by the term 'non-idle air valve related functions'." Furthermore, the Examiner states that Claim 1 recites "a 'non-hybrid vehicle' which is not disclosed in the specification." Applicants respectfully traverse this rejection and request that Claim 1 be reconsidered in view of these remarks and passed to issue over the Examiner's rejection. Applicants respectfully submit that the terms "non-idle air valve related functions", "non-hybrid vehicle" and "combustion engine" are clear from the ordinary meaning of these terms, particularly as read with the assistance of Applicants' specification and claims. Accordingly, in Claim 2, non-idle air functions are set forth as camshaft position function, crankshaft position function, remote start function and drive by wire function. The term "non-hybrid vehicle" entered this case in response to a previous rejection wherein it was made clear that this case applies to an engine which is not used in a hybrid automotive vehicle. Applicants cannot understand the lack of meaning of this negative limitation in the context of this case. Further, the Examiner's assertion that there is nothing in the case limiting coverage to a "combustion engine" is unsupportable because the preamble of Claim 1 specifically recites an internal combustion engine.

The Examiner further states that Claim 1 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention, once again citing the term "non-idle air valve

related function." Although the Examiner is correct that this term is not one ordinarily used in the art, it is quite clear from Applicants' specification and claims as originally filed, that it refers to engine functions other than the control of air at idle, hence, please review Claim 2.

The Examiner asserts further that Claim 1 recites a system limited to non-hybrid vehicles and further limited to an internal combustion engine, with neither limitation being provided in the specification of the original claims. The Examiner's attention is directed to paragraph 7 of Applicants' specification, wherein the use of an electronically controlled throttle is discussed in the context of an engine intake during engine shutdown. Moreover, as noted above, the term non-hybrid certainly has meaning in the context of the automotive patent art, and the mere fact that the term was not included in the specification in the claims as originally filed is not probative, given the prosecution history of this case.

Claims 1-3, 10, 13 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Slopsema et al. (U.S. Publication 2002/0179031) and Malik (U.S. Patent 4,364,343). The Examiner recites a list of items which Slopsema allegedly teaches, including:

> "The engine controller (20) temporarily maintaining operation of at least a portion of the controller functions when the ignition enabling device is switched to the an [sic] off state, the controller functions comprising a non-idle air valve related function, read on by step (56) of Figure 2 in which the throttle is adjusted to substantially reduce airflow….."

The Examiner argues that although Slopsema fails to teach a switch coupled to an ignition-enabling device in the fuel supply system, wherein the controller also disables the fuel supply system when the ignition enabling device being switched off, Malik teaches a switch coupled to a controller (a manual select shutdown switch), with the fuel supply system being disabled by a controller when the ignition is switched off. The Examiner finishes with the

assertion that it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the switch and fuel supply disabling system taught by Malik into the fuel shutdown system taught by Slopsema. Applicants respectfully traverse this rejection and request that each of Claims 1-3, 10 and 13 be reconsidered in view of these remarks and passed to issue over the Examiner's rejection.

Applicants respectfully submit that the Examiner's reliance upon Slopsema is not well-placed. Slopsema teaches the controlling of the throttle during an engine shutdown. Slopsema does not teach controlling of non-idle air valve related functions. Accordingly, on page 2, paragraph 14, Slopsema recites that:

> "The throttle 18 is preferably adjusted during the period of time such that the flow rate of the intake charge of air is...even more preferably less than about 30 percent of the idle speed flow rate and most preferably less than about 10 percent of the idle speed flow rate."

Thus, Slopsema teaches control of airflow and nothing else. Malik on the other hand teaches a switch for cutting off a fuel system. Applicants respectfully submit therefore, that even were there motivation to combine Malik and Slopsema, the resulting system could not function in the manner of Applicants' claimed device because the triggering of Malik's switch would merely cause the idle airflow to be cut off to the engine without maintaining operation of a portion of controller functions relating to non-idle airflow. As a result, Claim 1 is clearly allowable over the Examiner's rejection and should be passed to issue. Such action is earnestly solicited.

Regarding Claims 2, 10 and 13, Applicants respectfully note that each of these claims depends either directly or ultimately upon Claim 1 and are therefore allowable for the reasons stated above, and should be passed to issue. Such action is earnestly solicited. Similarly, Claims

5, 7, 8, 11 and 12 all stand rejected in view of Slopsema and Malik, and further in view of tertiary references. Applicants respectfully submit, however, that each of these claims is allowable for the reasons stated above in connection with the rejection of Claim 1 and as a result each of these claims should be passed to issue along with the other claims remaining in this case. Such action is earnestly solicited.

Concluding Remarks

Reconsideration of this application as amended is respectfully requested.

It is believed that this application is now in condition for allowance. Further and favorable action is requested.

The Patent Office is authorized to charge any fee deficiency or refund any excess to Deposit Account No. 06-1510.

Respectfully submitted,

DICKINSON WRIGHT PLLC

Jerome R. Drouillard, Registration No. 28,008
38525 Woodward Avenue, Suite 2000
Bloomfield Hills, MI 48304-2970
734-623-1698

Date: 4/16/08

Certificate of Mailing/Transmission

I hereby certify that this correspondence is being deposited via electronic submission on the USPTO website.

Commissioner for Patents
PO BOX 1450
Alexandria, Virginia 22313-1450

on 04-16-08

Kelly Mabin

ANNARBOR 36190-773 98051v1